

Family is Culture: Independent Review of Aboriginal and Torres Strait Islander Children and Young People in Out-of-Home Care in New South Wales December 2017

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About CREATE Foundation

CREATE Foundation is the national consumer body for children and young people with an out-of-home-care (OOHC) experience. We represent the voices of over 46 000 children and young people currently in care, and those who have transitioned from care up to the age of 25.

Our vision is that all children and young people with a care experience reach their full potential, in line with our mission to:

- **CONNECT** children and young people to each other, CREATE and their community *to*;
- **EMPOWER** children and young people to build self-confidence, self-esteem, and skills that enable them to have a voice and be heard *to*;
- **CHANGE** the care system, in consultation with children and young people, through advocacy to improve policies, practices and services and increase community awareness.

We achieve our mission by facilitating a variety of programs and services for children and young people in care.



Introduction

CREATE welcomes the opportunity to provide a submission regarding issues relating to the overrepresentation of Aboriginal and Torres Strait Islander children and young people in out-of-home care (OOHC) in New South Wales (NSW).

Consultation with Aboriginal and Torres Strait Islander children and young people in OOHC is a practice embedded within the work of CREATE. Historically, CREATE has conducted projects in Queensland (QLD) and Western Australia (WA) specifically aimed at consulting with Aboriginal and Torres Strait Islander children and young people to examine their care experiences and the importance of culture and connectedness. CREATE has produced submissions, discussions papers, research reports and a position paper which detail the specific issues facing Aboriginal and Torres Strait Islander children and young people and their OOHC experiences. A significant issue that has been at the forefront of CREATE's work for many years has been the overrepresentation of Aboriginal and Torres Strait Islander children in OOHC.

Recently, CREATE has been:

- Responsible for directly influencing six recommendations pertaining to children and young people in OOHC as a result of the Northern Territory Royal Commission into the Protection and Detention of Children for which Aboriginal children and young people in care comprise 82% of children in care in the Northern Territory;
- A strong supporter of the Family Matters initiative led by SNAICC which aims to eliminate the overrepresentation of Aboriginal and Torres Strait Islander children in OOHC by 2040; and
- Tasked with conducting a Queensland wide consultation for Aboriginal and Torres Strait Islander children and young people, *First Nation Voices*, which will hear from Aboriginal and Torres Strait Islander children in OOHC in order to better understand their experiences within the care system.

The overrepresentation of Aboriginal and Torres Strait Islander children and young people in care is increasing and is a significant cause for concern. In NSW, Aboriginal and Torres Strait Islander children are seven times more likely to receive a child protection service than their non-Indigenous peers and 10 times more likely than non-Indigenous children to be taken into care. If nothing is done, it has been estimated that by 2036 there will be a threefold increase in the population of Aboriginal and Torres Strait Islander children and young people in care (Family Matters, Strong Communities, Strong Culture, Stronger Children (Program) & University of Melbourne & Centre for Evidence and Implementation (Organisation) & Secretariat of National Aboriginal and Islander Child Care & Save the Children Australia, 2016). The gravity of the situation has been likened to the stolen generation by young people themselves. In a CREATE consultation with Aboriginal and Torres Strait Islander young people in QLD (CREATE Foundation, 2011), it was stated:

'It's kind of like they are still doing the stolen generation' (page 16)

'(it is) important to stop the stolen generation so we don't lose more culture' (page 13)



Current strengths and weaknesses of the children protection system

1. Children and young people in care lack understanding of the care process and how they came to be in care

CREATE's previous work has demonstrated that children and young people in care have a lack of understanding of the care process. In a CREATE consultation with Aboriginal and Torres Strait Islander children and young people in WA (CREATE Foundation, 2005), young people identified that you were brought into care if you were 'bad' or from a 'bad background'. This comment is reflective of the stigma often experienced by children and young people in care, and in particular, by Aboriginal and Torres Strait Islander children and young people.

The majority of Aboriginal and Torres Strait Islander children and young people who engaged in this consultation, identified that it was a family member who had talked to them about why they were in care, not a caseworker. Despite caseworkers having the greatest understanding of the out-of-home care process, including the reasons for children being brought into care, it appears communicating this to young people is not successfully managed.

Unfortunately, this lack of understanding and knowledge is not confined to Aboriginal and Torres Strait Islander children and young people in WA. A national survey conducted by CREATE (McDowall, 2013) with 1069 children and young people in OOHC demonstrated that Aboriginal and Torres Strait Islander children and young people across Australia were not being provided with enough information about the care process. Indigenous children knew less about why they were in care and had less information provided to them than non-Indigenous children in care.


2. Lack of knowledge regarding their cultural support plan

The CREATE report (McDowall, 2013) allowed for benchmarking of the National Standards of OOHC, in particular Standard 10 - supporting the cultural identity of children in OOHC. 10.1 in the National Standards of OOHC examines whether children and young people are being supported to develop their cultural identity by measuring the proportion of children and young people who have a cultural support plan (Department of Families, Health, Community Services and Indigenous Affairs, 2011). It was found that Aboriginal and Torres Strait Islander children and young people have a significant lack of knowledge regarding their cultural support plan. CREATE's report (McDowall, 2013) identified that only 10% of children and young people in NSW surveyed could identify they had a cultural support plan. In NSW, 80% identified that they either did not have or did not know if they had a cultural support plan.

A more recent report by McDowall (2016) which surveyed 296 Aboriginal and Torres Strait Islander children and young people in care found the proportion of children and young people reporting possessing a cultural support plan to be higher than previously reported, at 22.5%. This highlights an increase in the utilisation of cultural support plans with children and young people in the years between 2013 and 2016. Whilst NSW had the second highest proportion of children and young people being aware of their cultural support plan, there is still a significant number of children and young people who were not aware of a cultural support plan. These plans need to be utilised more effectively and used in consultation with children and young people to promote their cultural identity.

3. Higher rate of unsuccessful attempts at restoration

CREATE through our National Survey (McDowall, 2013) found that Aboriginal and Torres Strait Islander children and young people experience more attempts at restoration than non-Indigenous



young people. Forty-five percent of Aboriginal and Torres Strait Islander children and young people reported returning to live with their birth parents three or more times. While this shows a commitment to ensure that Aboriginal and Torres Strait Islander children and young people are being reunified with family, it also suggests that these attempts at restoration are repeatedly unsuccessful, resulting in young people being returned to care more often.

4. Lack of education regarding Aboriginal and Torres Strait Islander culture

Consultations with Aboriginal and Torres Strait Islander children and young people in QLD (CREATE Foundation, 2011) highlighted the need to be placed in homes that maintain and enhance children and young people's cultural identity. When asked about what makes a good or safe home and why culture is important, young people responded:

'Being able to learn about my culture, because I don't live with my family' (page 10)

'My fathers, sisters and brothers are important to see. It's not my right (to see them) but I want to have a say in seeing them (but I don't)' (page 11)

'Culture is important, it tells you who your family are and who you are' (page 12)

'It means everything' (page 12, page 14)

Young people further highlighted the importance when asked what would happen if children and young people could not be connected with their culture. Their responses included:

'They wouldn't cope' (page 13)

'It would ruin our lives' (page 13)


'Without your culture you don't know who you are' (page 13)

Currently NSW has the largest proportion of Aboriginal and Torres Strait Islander children and young people placed in an Indigenous context at approximately 80% (McDowall, 2016). Whilst this is commendable, the CREATE National Survey (McDowall, 2013) found that 35% of Aboriginal and Torres Strait Islander children and young people in NSW reported having *no one* to teach them about their culture - this was the second highest rate in Australia. This is in stark contrast to a national average reported by McDowall (2016) in which one quarter (25%) did not have anyone to help them understand their culture.

5. Lack of cultural connectedness

Standard 10.2 in the National Standards of OOHC examines whether children and young people are being supported to develop their cultural identity by measuring the proportion of children and young people who identify with their community and culture (Department of Families, Health, Community Services and Indigenous Affairs, 2011).

McDowall (2016) found that 30.7% of Aboriginal and Torres Strait Islander children and young people in OOHC across Australia identified feeling little or no connection with culture, 37.5% felt reasonably or somewhat connected and 31.8% felt they were quite or very connected with their culture. The CREATE National Survey identified that within NSW, on average, Aboriginal and Torres Strait Islander children and young people felt *'reasonably'* to *'somewhat'* connected with their culture (McDowall, 2013). Again the CREATE National Survey allowed for benchmarking of the National Standards of OOHC and indicates that more needs to be done in order to promote cultural identity.



Whilst NSW is leading the way in terms of placing children according to the Child Placement Principal, there appears to be a lack of knowledge and learning being provided to Aboriginal and Torres Strait Islander children and young people about their culture even within this placement context. The CREATE National Survey (McDowall, 2013) found that a young person's knowledge of their family story was the strongest predictor of strength and connection to culture. Despite this, significant proportions of Aboriginal and Torres Strait Islander children and young people in NSW are reporting they have *no one* to cultivate this and are not aware of a cultural support plan, a tool designed to record their family story. Another important factor identified by McDowall (2016) was that young people who saw their fathers more, reported feeling closer to their cultural community. Despite this, fathers were also identified as having the least amount of contact when compared with other birth relatives.

Given the importance that knowledge and familial connection plays, more must be done to help children and young people remain connected to their culture through connection and information sharing, in order to preserve and enhance their Aboriginal and Torres Strait Islander identity when in OOHC.

Recommendations

CREATE encourages this Review to consider the following recommendations with a view to reducing the number of Aboriginal and Torres Strait Islander children and young people in OOHC.

1. Review the factors behind the high rate of unsuccessful restoration

Evidence suggests that Aboriginal and Torres Strait Islander children and young people come back into care more frequently due to restoration attempts repeatedly being unsuccessful (McDowall, 2013). As such, this process may benefit from reviewing the precipitating factors that impeded these reunification efforts and strategies to better support families after the young people are restored to their family's care.

2. Listen to the voices of children and young people when developing and implementing services to support families

CREATE believes it is crucial for Aboriginal and Torres Strait Islander children and young people's voices to be incorporated when addressing change to ensure that the delivery of services for this demographic are culturally appropriate and reflective of their needs. In a consultation with Aboriginal and Torres Strait Islander children and young people in QLD (CREATE Foundation, 2011) children and young people were asked what *communities and organisations* could do to support children and young people and prevent them coming into care. These views reflect the larger opinions that strategies aimed at prevention and supporting families and communities is crucial:


'Ask family if they are okay? (before the children have to come into care)' (page 14)

'Help look after them (the children)' (page 14)

'Talking to aunties and uncles and teachers – these people motivate us and protect us' (page 14)

When asked what *governments* could do, Aboriginal and Torres Strait Islander children and young people responded again with the need for focus to be on prevention and at home intervention:

'Give the family help instead of just telling them what is wrong.' (page 15)



'If the department say your parents aren't good then they (the department) need to be better than your parents.' (page 15)

'Have a family meeting (to try and keep the kids safe at home). (page 15)

The views of these Aboriginal and Torres Strait Islander children and young people reflect the views expressed in the Family Matters initiative led by SNAICC for which CREATE strongly supports - the need for collaboration and partnership amongst community and government to empower communities and provide the support needed.

3. A commitment to cultural connectedness through adherence to the Child Placement Principal, an intent for all Aboriginal and Torres Strait Islander children and young people to possess a cultural support plan and an understanding of their care journey.

Whilst placement of Aboriginal and Torres Strait Islander children according to the Child Placement principal is a priority for the NSW Government, there remains a significant gap in the number of children who report a feeling of cultural connectedness with less than one-third (31.8%) reporting they are quite or very connected to culture. Strategies to improve a young person's knowledge of their own family story, of their own story of coming into care and possession of a cultural support plan are all important steps to enhance cultural connectedness.

4. Enhanced support for children and young people transitioning from care

Finally, CREATE is a strong advocate for the need to better support children transitioning from care. In particular, CREATE advocates for formalised arrangements and partnerships for after-care support for Aboriginal and Torres Strait Islander children and young people in order to break the intergenerational cycle of care.



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